

EXHIBIT F

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

LOREN COOK COMPANY,

Plaintiff,
v.

NATIONAL LABOR RELATIONS
BOARD, JENNIFER ABRUZZO,
LAUREN M. MCFERRAN, MARVIN E.
KAPLAN, GWYNNE A. WILCOX,
DAVID M. PROUTY, and JOHN DOE,

Defendants,
and

UNITED STEEL, PAPER AND
FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION
(USW)
LOCAL 15485

Intervenor.

Case No. 6:24-CV-03277-BCW

Honorable Brian C. Wimes

NOTICE OF MODIFIED POSITION

Defendants (collectively, “NLRB”) respectfully notify the Court that they are no longer relying on the arguments set forth in their Motion to Dismiss and Reply that the statutory restrictions on removing NLRB Board members and administrative law judges are constitutional (ECF No. 32, at 5-12, ECF No. 40, at 1, 2-8). This is consistent with the position of the Acting Solicitor General. *See* Notice

of Change in Position at 1, *Express Scripts, Inc. v. FTC*, No. 4:24-cv-1549-MTS (E.D. Mo. Feb. 15, 2025), ECF No. 57 (attached).

On February 14, 2025, Defendants submitted a Supplemental Brief [ECF No. 56] in response to Plaintiff's Supplemental Brief [ECF No. 52], which informed the Court of the removal of former Member Gwynne Wilcox. Plaintiff argued that "[a]t a minimum, the President's directive to remove Ms. Wilcox satisfies *Collins*' requirement of a 'public statement of displeasure'; and *Collins*' 'harm' statements are plainly met." It was in that context that Defendants submitted their response, arguing that the removal of former Member Wilcox did not satisfy the causal-harm requirement. To be clear, the NLRB did not assert in its Supplemental Brief that the removal restrictions challenged in this case are constitutional. Nor did the NLRB's Supplemental Brief argue for dismissal of Plaintiff's Complaint on any ground other than lack of causal harm.

Defendants continue to assert that the Complaint in this matter should be dismissed on the basis that Plaintiff cannot succeed on its removal-restrictions challenges because it has failed to show causal harm. *See* ECF No. 32, at 12–14; ECF No. 40, at 8–10; ECF No. 56, at 1-3.

Respectfully submitted,

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/s/ Kent J. Coupe

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